

## **REMARKS**

This application has been reviewed in light of the Office Action mailed November 18, 2005. Reconsideration of this application in view of the below remarks is respectfully requested. Claims 1 - 35 are pending in the application with Claims 2, 4, 5, 8 - 11, 14, 17 - 20 and 26 - 30 have been previously withdrawn. By the present amendment, Claims 3 and 6 are canceled, Claims 1 and 13 are amended and Claims 31 - 35 are newly added. No new subject matter is introduced by way of the present amendment.

Initially, the specification is amended to correct several errors regarding grammar and references to the figures.

### **I. Objection to Claims 7 and 16**

Claims 7 and 16 are objected to for depending from rejected base claims. However, according to the Examiner, Claims 7 and 16 contain patentably distinct subject matter and would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims. However, Claims 1 and 13, from which Claims 7 and 16 depend, have been amended in a manner believed to obviate the rejection. Accordingly, Applicant respectfully requests withdrawal of the objection with respect to Claims 7 and 16.

### **II. Rejection of Claims 1, 3, 6, 12-13, 15 and 21-25 under 35 U.S.C. § 102(b)**

Claims 1, 3, 6, 12-13, 15 and 21-25 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,209,220 issued to Hiyama et al.

The Examiner incorrectly equates Applicants' extra-corporeal unit 4 with the Hiyama disclosed image recording part 323 and Applicants' data transmitting device with image compressing and recording part 308. However, it is clear from FIG. 50 of Hiyama, that the image

compressing and recording part 308 does not transmit to the image recording part 323 as the image recording part 323 is a component of the image compressing and recording part 308.

Additionally, Claims 1 and 13 explicitly recite that the image pick-up device, of which the data transmitting device is a part, transmits the image by radio to the extra-corporeal unit. There is no disclosure in Hiyama directed to transmitting the image data by radio. On the contrary, the figures of Hiyama show the various components (i.e., CCD 301 and image recording part 323) as being wired together, thus transmission of image data by radio would be unnecessary in the Hiyama disclosed device.

Further, the determining device, as recited in Claims 1 and 13, determines a validity of the image according to the characteristic amount detected by the characteristic amount detecting device, the determining device including a first determining device for determining the validity of the image based on the number of pixels having a specific color detected as the first amount of characteristics, and a second determining device for determining the validity of the image based on the second amount of characteristics which is different from the first amount of characteristics. The data transmitting device controls the data transmitting ratio in accordance with the validity determination result of the determining device. Thereby, to transmit the image at different transmission ratios in response to the validity indicating signal.

Hiyama fails to disclose the above-identified components and functions of Applicant's determining device as recited in amended Claims 1 and 13.

It is well-settled by the Courts that "Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim." Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Company, et al., 730 F.2d 1452, 221 USPQ 481 (Fed. Cir., 1984).

Consequently, as demonstrated above, because Hiyama does not disclose each and every element recited in the present claims, Applicant respectfully submits that the rejection has been obviated. Therefore, for at least the reasons given above, Claims 1, 3, 6, 12-13, 15 and 21-25 are believed to be patentably distinct and allowable over the cited prior art references. Accordingly, Applicant respectfully requests withdrawal of the rejection with respect to Claims 1, 3, 6, 12-13, 15 and 21-25 under 35 U.S.C. § 102(b).

### **III. Newly Added Claims 31 – 35**

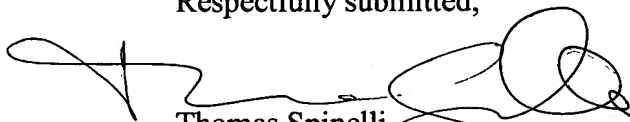
Claims 31 – 35 have been newly added by way of the present amendment. As these claims depend from Claim 1, Claims 31 – 35 include all the limitations recited therein by Claim 1. Consequently, Claims 31 – 35 are believed to be patentably distinct and allowable over the cited prior art references for at least the reasons given above.

### CONCLUSIONS

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1, 7, 12, 13, 15, 16, 21 – 25 and 31 - 35 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicant's undersigned attorney at the number indicated below.

Respectfully submitted,



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